



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Sentrix Pharmacy & Discount LLC

Respondent Name

Texas Municipal League Intergovernmental Risk

MFDR Tracking Number

M4-17-1292-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

January 09, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Sentrix Pharmacy and Discount, LLC (the 'Pharmacy') requests payment for the services rendered to [injured employee] on 10/24/16. The service rendered was the filling and dispensing of prescription medication. The claim(s) in question were properly submitted pursuant to the Pharmaceutical Benefits rules codified in 28 Texas Administrative Code (TAC) §134.500 through §134.550.

The insurance carrier, TMLIRP failed to take final action within the 45-day period set forth in TAC §134.240. Specifically the claim was submitted on 10/24/16 and it was received by the provider on 10/29/16 (as verified by the attached proof of delivery) and no action was taken on the claim. "

Amount in Dispute: \$2,704.03

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The medication at issue required preauthorization. Carrier maintains that reimbursement is not owed because the provider failed to obtain preauthorization ... See attached SOAH decision 454-16-1884-NP for support of carrier's position."

Response Submitted by: Flahive Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 24, 2016	Pharmacy services – Compound 240 Grams	\$2,704.03	\$2,704.03

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.240 sets out the procedure for medical bill processing by the workers'

compensation insurance carrier.

3. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical benefits.
4. 28 Texas Administrative Code §134.503 sets out the fee guideline for pharmacy services.
5. Texas Labor Code §408.027 sets out provisions related to payment of health care providers.
6. No explanation of benefits were found in the submitted documentation.

Issues

1. Did Texas Municipal League Intergovernmental Risk (TMLIR) reduce or deny the disputed services not later than the 45th day after receiving the medical bill?
2. Is the requestor entitled to additional reimbursement?

Findings

This medical fee dispute was filed by health care provider Sentrix Pharmacy and Discount LLC (Sentrix) on January 09, 2017. Sentrix on its table of disputed services asserts that it was not paid by TMLIR for the compound it dispensed to a covered injured employee on October 24, 2016.

1. Sentrix contends that TMLIR ... “failed to take final action within the 45-day period set forth in in TAC §134.240.” Furthermore, in its reconsideration request, Sentrix also alleges that “Sentrix has not ... received any sort of notification or EOBR.”

According to Texas Labor Code Sec. 408.027 (b), TMLIR was required to pay, reduce or deny the disputed services not later than the 45th day after it received the medical bill from Sentrix. Corresponding 28 Texas Administrative Code §133.240 (a) also required TMLIR to take **final action** by issuing an explanation of benefits not later than the statutorily-required 45th day. Final action is defined as:

Rule §133.2 (6) Final Action on a medical bill –

- (A) sending a payment that makes the total reimbursement for that bill a fair and reasonable reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement); and/or
- (B) denying a charge on the medical bill.

The following evidence supports Sentrix’s written statement that the medical bill for the service in dispute was initially received by TMLIR on October 29, 2016.

- A copy of a USPS First Class Mail receipt dated October 24, 2016 numbered 9400 1118 9956 4815 2269 80 addressed to TMLIRP.
- A copy of a corresponding USPS tracking printout indicating that TMLIR received certified mail number 9400 1118 9956 4815 2269 80 on October 29, 2016 at the location listed on the certified mail receipt.

Although there is evidence to support that TMLIR received a medical bill for the service in dispute on October 29, 2016, TMLIR failed to timely take the following actions:

Rule §133.240 (a) An insurance carrier **shall take final action** [emphasis added] after conducting bill review on a complete medical bill...**not later than the 45th day** [emphasis added] after the insurance carrier received a complete medical bill.

Rule §133.240 (e) The insurance carrier **shall send the explanation of benefits** in accordance with the elements required by §133.500 and §133.501 of this title...The explanation of benefits shall be sent to:

- (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill...

TMLIR’s failure to timely issue an explanation of benefits to Sentrix Pharmacy creates a waiver of defenses that TMLIR raised in its response to medical fee dispute resolution under Rule §133.307 (d)(2)(F):

28 Texas Administrative Code §133.307 (d)(2)(F) The [carrier's] response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review.

The division notes that Flahive Ogden & Latson's (FOL) response to medical fee dispute resolution on behalf of TMLIR includes a statement that "the carrier asserts that it has paid according to applicable fee guidelines and challenges whether the disputed charges are consistent with the applicable fee guidelines."

The division notes that contrary to FOL's conclusory statement:

- no evidence was presented by FOL to the division to support that TMLIR took final action by paying reducing or denying the services in dispute within 45 days; and
- no evidence was presented to the division to support that TMLIR timely presented **any** defenses to Satrix on an explanation of benefits as required under Rule §133.240.

All workers compensation insurance carriers are expected to fulfill their duty to take final action as required by the divisions Laws and adopted administrative rules. TMLIR failed to do so in this case.

The Division concludes that TMLIR's failure to timely issue an appropriate explanation of benefits creates a waiver of any new defenses presented by TMLIR's to the division at medical fee dispute. Absent any evidence to the contrary, the Division finds that the services in dispute are eligible for payment.

2. Rule at 28 Texas Administrative Code §134.503 applies to the compound in dispute and states, in pertinent part:

(c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:

- (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
 - (A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
- (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
 - (A) health care provider; or
 - (B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

The compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 Texas Administrative Code §134.502 (d)(2).

Each ingredient is listed below with its corresponding reimbursement amount as applicable.

Ingredient	NDC & Type	Price / Unit	Total Gm	AWP Formula §134.503(c)(1)	Billed Amount §134.503(c)(2)	Lesser of (c)(1) and (c)(2)
Salt Stable LS Base	00395602156 Generic	\$3.36000	182.40	\$668.02	\$612.86	\$612.86

